



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,524	03/14/2001	David Harold Berry	CSA 2 0114	4510

7590 12/21/2001

Timothy E. Nauman, Esq.
Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue, 7th Floor
Cleveland, OH 44114-2518

EXAMINER

SAETHER, FLEMMING

ART UNIT	PAPER NUMBER
----------	--------------

3627

DATE MAILED: 12/21/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/808,524

Applicant(s)

BERRY ET AL.

Examiner

Flemming Saether

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title should include the piercing feature.

Claim Rejections - 35 USC § 112

Claims 5 and 6 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 5, it is confusing how the leading edge can merges into the pointed nose yet at the same time be spaced therefrom. In claim 10 "360" should be provided with --degrees-- or its symbol. The claims were examined as best understood.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 8-12 and 15-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Caldwell. Caldwell discloses a fastening peg (10) comprising a conical piercing point (32), a helical flange (36) spiraling radially and circumferentially from the point, a shoulder (40) axially spaced from the flange and, locking assembly (48). The

Art Unit: 3627

helical flange terminated in a radial edge and as can be seen in Fig. 3, is spaced 360° from where the helical flange begins at the point. Caldwell further teaches a method of piercing and rotating to advance the fastener into the opening and then axially securing the fastener to an opening (28) In the weatherseal and vehicle are merely and intended use but, it should be noted that in Caldwell member 12 could broadly be read as a "weatherseal" and opening 18 could broadly be read as an opening in a vehicle.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 5-7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caldwell as applied to claims 1, 4, 11 and 12 above, and further in view of Schmidt. Schmidt teaches a threaded fastener wherein the threads begin at a location spaced from the point and to provide a thread to a pointed nose (Fig. 15). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the pointed nose of Caldwell space the beginning of the helical flange from the point and to provide the nose with the a thread as taught in Schmid in order to facilitate the piercing of the substrate as disclosed therein.


Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Caldwell as applied to claim 11 above, and further in view of Mayers. Mayers discloses to provide a locking assembly with locking arms (20). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to locking assembly of Caldwell with locking arms as disclosed in Mayers such that it would be easier to fit the locking assembly into an opening.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 703-308-0182. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bethanne Dayoan can be reached on 703-308-3865. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.


Flemming Saether
Primary Examiner
Art Unit 3627

December 15, 2001